

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 231

Introduced by Beutler, 28; Schrock, 38

Read first time January 11, 1999

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 66-1345 and 77-4401, Reissue Revised Statutes of
3 Nebraska; to change provisions relating to the commercial
4 fertilizer fee; to harmonize provisions; and to repeal
5 the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 66-1345, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 66-1345. (1) There is hereby created the Ethanol
4 Production Incentive Cash Fund which shall be used by the board to
5 pay the credits created in section 66-1344 to the extent provided
6 in this section. Any money in the fund available for investment
7 shall be invested by the state investment officer pursuant to the
8 Nebraska Capital Expansion Act and the Nebraska State Funds
9 Investment Act. The State Treasurer shall transfer to the Ethanol
10 Production Incentive Cash Fund such money as shall be (a)
11 appropriated to the Ethanol Production Incentive Cash Fund by the
12 Legislature, (b) given as gifts, bequests, grants, or other
13 contributions to the Ethanol Production Incentive Cash Fund from
14 public or private sources, (c) made available due to failure to
15 fulfill conditional requirements pursuant to investment agreements
16 entered into prior to April 30, 1992, (d) received as return on
17 investment of the Ethanol Authority and Development Cash Fund, (e)
18 ~~credited to the Ethanol Production Incentive Cash Fund from the~~
19 ~~fertilizer fee pursuant to section 77-4401, (f) credited to the~~
20 Ethanol Production Incentive Cash Fund from the excise taxes
21 imposed by section 66-1345.01, and ~~(g)~~ (f) credited to the Ethanol
22 Production Incentive Cash Fund pursuant to section 66-1345.04.

23 (2) The Department of Revenue shall, at the end of each
24 calendar quarter, notify the State Treasurer of the amount of motor
25 fuel tax that was not collected in the preceding calendar quarter
26 due to the credits provided in section 66-1344. The State
27 Treasurer shall transfer from the Ethanol Production Incentive Cash
28 Fund to the Highway Trust Fund an amount equal to such credits less

1 the following amounts:

2 (a) For 1993, 1994, and 1995, the amount generated during
3 the calendar quarter by a one-cent tax on motor fuel pursuant to
4 sections 66-489, 66-668, and 66-6,107;

5 (b) For 1996, the amount generated during the calendar
6 quarter by a three-quarters-cent tax on motor fuel pursuant to such
7 sections;

8 (c) For 1997, the amount generated during the calendar
9 quarter by a one-half-cent tax on motor fuel pursuant to such
10 sections; and

11 (d) For 1998, 1999, and 2000, no reduction.

12 The amounts shall be transferred through December 31,
13 2000. For 1993 through 1997, if the amount generated pursuant to
14 subdivisions (a), (b), and (c) of this subsection and the amount
15 transferred pursuant to subsection (1) of this section are not
16 sufficient to fund the credits provided in section 66-1344, then
17 the credits shall be funded through the Ethanol Production
18 Incentive Cash Fund but shall not be funded through either the
19 Highway Cash Fund or the Highway Trust Fund. For 1998, 1999, and
20 2000, the credits provided in such section shall be funded through
21 the Ethanol Production Incentive Cash Fund but shall not be funded
22 through either the Highway Cash Fund or the Highway Trust Fund.

23 (3) The State Treasurer shall transfer from the Ethanol
24 Production Incentive Cash Fund to the Management Services Expense
25 Revolving Fund the amount reported under subsection (4) of section
26 66-1345.02 for each calendar quarter of the fiscal year as provided
27 in such subsection.

28 (4) On February 15, 2001, the State Treasurer shall

1 transfer any unexpended and unobligated funds from the Ethanol
2 Production Incentive Cash Fund to the Nebraska Corn Development,
3 Utilization, and Marketing Fund and Grain Sorghum Development,
4 Utilization, and Marketing Fund in the same proportion as funds
5 were collected pursuant to section 66-1345.01 from corn and grain
6 sorghum.

7 Sec. 2. Section 77-4401, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 77-4401. (1) ~~Through December 31, 1996, there shall be~~
10 ~~There is~~ imposed a fee of ~~four dollars~~ one dollar per ton upon the
11 gross tonnage of all sales, use, or other consumption in this state
12 of commercial fertilizers. ~~and commencing January 1, 1997,~~
13 ~~through December 31, 2000, there shall be imposed a fee of one~~
14 ~~dollar per ton upon such gross tonnage.~~ The fee shall be paid by
15 the purchaser of the commercial fertilizer. Any commercial
16 fertilizer subject to the sales and use tax pursuant to the
17 Nebraska Revenue Act of 1967 shall be exempt from the fee imposed
18 by this section. For purposes of this section, the definitions
19 found in section 81-2,162.02 shall apply.

20 (2) The fee imposed by this section shall be collected by
21 the seller and remitted to the ~~Department of Revenue for credit to~~
22 ~~the Ethanol Production Incentive Cash Fund through December 31,~~
23 ~~1996, and to the Natural Resources Enhancement Fund on and after~~
24 ~~January 1, 1997,~~ based on the gross tonnage of commercial
25 fertilizers sold during the preceding period. Payment of the fee
26 shall be accompanied by a report setting forth the gross tonnage of
27 commercial fertilizers sold by the seller. The report shall be on
28 a form prescribed by the Department of Revenue and shall include

1 such other information as the Tax Commissioner deems necessary.
2 The provisions of the Nebraska Revenue Act of 1967 applicable to
3 sales and use taxes shall apply to imposition of the fee.

4 (3) For purposes of this section, gross tonnage shall not
5 include water and other carriers added by the retail seller of the
6 fertilizer and shall not include sales of packages of fertilizers
7 containing ten pounds or less.

8 (4) Any person who purchased commercial fertilizer prior
9 to May 1, 1993, and paid a fee greater than three dollars per ton
10 shall be entitled to a refund of the amount paid in excess of three
11 dollars per ton.

12 (5) The Tax Commissioner shall adopt and promulgate rules
13 and regulations to carry out this section.

14 Sec. 3. Original sections 66-1345 and 77-4401, Reissue
15 Revised Statutes of Nebraska, are repealed.